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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,596	01/08/2002	Joseph Laurence LaCroce	Lacroc.J-01	6999
22197	7590	03/21/2005	EXAMINER	
GENE SCOTT; PATENT LAW & VENTURE GROUP 3140 RED HILL AVENUE SUITE 150 COSTA MESA, CA 92626-3440			NGUYEN, TAM M	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/042,596	LACROCE, JOSEPH LAURENCE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tam Nguyen	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: See Continuation Sheet.

Continuation of Attachment(s) 6). Other: 1 nonpatent reference & Great Britain reference.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-3 and 11-13 are rejected under 35 U.S.C. 102(a) as being anticipated by Hampton Fitness website (“Hampton”).

1. As to claims 1-3 and 11-13, Hampton discloses a bar bell apparatus comprising a pair of linear weight engagement bars, a pair of hand gripping bar portions arranged end to end thereby defining a longitudinal axis, each of the hand gripping bar portions providing an elongated frame defining a hand gripping window, and positioned integrally within each window are spaced apart and fixed linear cross bars oriented at identically fixed selected orthogonal angles relative to the longitudinal axis (see picture from Hamptonfit.com).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4, 14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hampton in view of Dymeck (2,508,567).

2. As to claim 4 and 14, Hampton discloses a barbell apparatus as described above. Hampton does not disclose that the linear cross bars are disposed non-orthogonally, such as at 70 degrees, relative to a longitudinal axis of the apparatus. Dymeck discloses a bar bell having portions (17,19) similar to applicant's linear cross bars that are orthogonal relative to a longitudinal axis (see Fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to fix Hampton's linear cross bars orthogonally to the hand gripping window at any of an array of angles including 70 degrees relative to the longitudinal axis, such that the user can focus on developing both his biceps and triceps depending on the region of the bar bell that is gripped during exercise.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hampton in view of Jennings et al. (4,822,035).

3. As to claim 5, Hampton discloses a barbell apparatus as described above (see discussion of claims 1-3 above). Hampton does not disclose that the hand gripping bar portions are separated by an axially aligned integral center linear

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bar portion. Jennings et al. disclose a similar bar bell having two hand gripping portions that are separated from each other by an adjustable center bar portion (78) (see Figs. 4 & 5). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to make Hampton's hand gripping windows linearly adjustable with a center bar portion there between such that the hand grips can be easily adjusted to comfortably fit users of different torso size and or arm lengths. Adjustability, where desirable, is a modification that is within the skill of the art. In re Stevens, 212 F.2d 197, 101 USPQ 284 (CCPA 1954).

4. As to claims 6 and 7, Hampton and Jennings et al. disclose a modified barbell apparatus as described above (see discussion of claim 1). Hampton further discloses the invention as substantially claimed.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hampton in view of Jennings (4,822,035) and in further view of Dymec (2,508,567).

5. As to claim 8, Hampton and Jennings et al. disclose a modified barbell as described above (see discussion of claim 5). Hampton does not disclose that the linear cross bars are disposed non-orthogonally relative to a longitudinal axis of the apparatus. Dymec discloses a bar bell having portions (17,19) similar to applicant's linear cross bars that are orthogonal relative to a longitudinal axis (see Fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to fix Hampton's linear cross

bars orthogonally to the hand gripping window such that the user can focus on developing both his biceps and triceps depending on the region of the bar bell that is gripped during exercise.

Claims 1, 5, 9-11, 15 and 16 rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings et al. (4,822,035) in view of Vitone (5,080,349).

6. As to claims 1, 5, 9-11, 15 and 16, Jennings et al. disclose a bar bell apparatus comprising a pair of linear weight engagement bars (18), a pair of hand gripping bar portions (67) arranged end to end thereby defining a longitudinal axis, each of the hand gripping bar portions providing an elongated frame defining a hand gripping window, a center bar portion (78), a rotatable collar (45/79) and positioned integrally within each window are spaced apart and fixed linear cross bars (65,69) oriented at fixed selected angles relative to the longitudinal axis (see Figs. 1, 2, 4 & 5). Jennings et al. does not disclose that the collar includes an attachment means. Vitone discloses a similar barbell apparatus that includes an eyelet attachment means (96) (see Figs. 5, 6, 8 & 9). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to add a weight attachment means such as an eyelet to Jenning's collar so that a user can place added weight to the center of the barbell to allow for additional types of exercise wherein the weight is not concentrated on the ends of the barbell.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-17 are have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Thomas '123 discloses a barbell having multiple linear cross bars (see Fig. 2).

Metz '400 discloses a length adjustable barbell (see Fig. 1).

Maddix et al. '112, Brockett et al. '526, Doss '244, Suponitsky '485, Selsam '305 and Mayo '575 disclose various exercise handles and bar bells having linear cross bar-like structures that are non-orthogonal relative to their respective longitudinal axes.

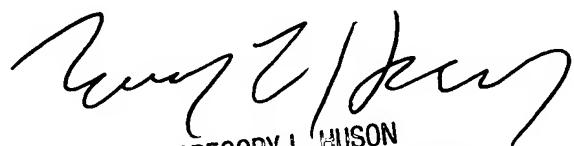
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F, 9-5.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 16, 2005

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